

Treaties, Conventions and Agreements that relate to Sustainable Forest Management in Michigan

The State Forest system managed by the Michigan Department of Natural Resources (DNR) is certified under the Forest Stewardship Council (FSC) Regional Forest Stewardship Standard for the Lake States-Central Hardwoods Region of the United States (U.S.). FSC Criterion/Indicator 1.3a requires the DNR to demonstrate that forest management operations comply with all binding treaties or other agreement to which the U.S. is a party, including treaties with American Indian tribes. This document provides a summary analysis of DNR compliance with this FSC standard. Information regarding specific treaties, conventions and agreements are provided below, followed by a statement of DNR compliance in red font.

1. There are numerous treaties that cover the surface area of Michigan, Two treaties involving 7 of 12 federally recognized Michigan tribes involve treaty retained rights to natural resource use on public lands. The five other federally-recognized Indian tribes in the state have treaties that do not involve treaty retained rights to natural resource use on public lands, and there is no outstanding claim to publicly-owned natural resources by any of these five tribes. The following two treaties with Native Americans are relevant to natural resource management in Michigan:

- Treaty with the Chippewa: 1842 (Treaty of LaPointe)
(<http://digital.library.okstate.edu/kappler/Vol2/treaties/chi0542.htm>)
(Keweenaw Bay Indian Community, Lac Vieux Desert Band of Lake Superior Chippewa Indians)

DNR COMPLIANCE: This treaty refers to portions of western upper peninsula Michigan and northern Minnesota and Wisconsin and specifically addresses hunting and fishing (both inland and Great Lakes). This treaty was adjudicated in Minnesota and Wisconsin and, while Michigan was not part of that court case, the State has an informal agreement with the tribes to follow the protocol set forth in the courts ruling on the fisheries issues.

- Treaty with the Ottawa and Chippewa: 1836 (Treaty of Washington)
(<http://digital.library.okstate.edu/kappler/Vol2/treaties/ott0450.htm>)
(Bay Mills Indian Community, Sault Ste. Marie Tribe of Chippewa Indians, Grand Traverse Band of Ottawa and Chippewa Indians, Little River Band of Ottawa Indians, and Little Traverse Bay Bands of Odawa Indians)

DNR COMPLIANCE: This treaty applies to approximately the eastern half of the Upper Peninsula, and roughly the northern third of the Lower Peninsula of Michigan. Litigation in federal court in the late 1970's resulted in court affirmation of treaty rights to fish on waters of the Great Lakes, and the state, effected tribes, and the United States have negotiated two Consent Decrees since that decision that establish and regulate tribal fishing effort (most recent is the 2000 agreement http://www.michigan.gov/dnr/0,1607,7-153-10364_36925---,00.html). There is no court affirmation of inland treaty rights to hunt, fish, or gather forest products in effect in this area at this time. Current on-going

litigation and negotiations between the state, the five federally-recognized Indian tribes located in this area, and the United States is intended to resolve this issue. The state will follow the results of this process.

2. The Convention on International Trade in Endangered Species of Wild Fauna and Flora, (CITES) is an international agreement between Governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. CITES lists specific plants and animals that are protected, whose collection and transport is regulated by the convention. The United States ratified the convention on 1/14/1974. See <http://www.cites.org/> for full details. A few examples of prominent species in Michigan include: bald eagle, red shouldered hawk, Kirtland's warbler, northern goshawk, Indiana bat, gray wolf, dwarf lake iris and walking sedge.

DNR COMPLIANCE: DNR hunting & trapping regulations require CITES tags to be attached to listed species. The DNR Wildlife Division reports annually to the U.S. Fish and Wildlife Service on the harvest of the two CITES listed species (bobcat and river otter) that are found in the state. The DNR Law Enforcement Division cooperates with the U.S. Fish and Wildlife Service and other states in the enforcement of CITES listed species through the Lacey Act. In 2003 a memorandum of agreement was entered into under the authority of the Fish and Wildlife Improvement Act of 1978 between the U.S. Fish and Wildlife Service and the DNR that describes the scope and extent of that cooperation.

3. The Lacey Act as amended, 1981. Under this law, it is unlawful to import, export, sell, acquire, or purchase fish, wildlife or plants taken, possessed, transported, or sold: 1) in violation of U.S. or Indian law, or 2) in interstate or foreign commerce involving any fish, wildlife, or plants taken possessed or sold in violation of State or foreign law. The law covers all fish and wildlife and their parts or products, and plants protected by the Convention on International Trade in Endangered Species and those protected by State law. For more detail see <http://www.fws.gov/laws/lawsdigest/lacey.html>.

DNR COMPLIANCE: A memorandum of agreement was entered into under the authority of the Fish and Wildlife Improvement Act of 1978. Under this 2003 agreement, the DNR Law Enforcement Division cooperates with the U.S. Fish and Wildlife Service and other states in the enforcement of State and Federal laws. The Lacey Act is specifically listed as one area of cooperation.

4. Convention on wetlands. The Convention on Wetlands is an intergovernmental treaty which provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. It was adopted in the Iranian city of Ramsar in 1971 and came into force in 1975, and it is the only global environmental treaty that deals with a particular ecosystem. The Convention's member countries cover all geographic regions of the planet. United States signed the Convention on 4/18/1987. See <http://www.ramsar.org/> for full details.

DNR COMPLIANCE: There are currently no designated Ramsar sites in Michigan. However, the State of Michigan is strongly involved in the protection of wetlands. The

State has enacted Part 303, Wetlands Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451 as amended, and is one of two States to have received delegated authority under Section 404 of the Federal Clean Water Act from the U.S. Environmental Protection Agency. This program is now administered by the Michigan Department of Environmental Quality, Land and Water Management Division.

5. Migratory Bird Treaty with Canada (Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds; 39 Stat. 1702; TS 628), as amended -- This 1916 treaty adopted a uniform system of protection for certain species of birds which migrate between the United States and Canada, in order to assure the preservation of species either harmless or beneficial to man. Sets certain dates for closed seasons on migratory birds. Prohibits hunting insectivorous birds, but allows killing of birds under permit when injurious to agriculture.

The Convention was signed at Washington, D.C., on August 16, 1916, and ratified by the United States on September 1, 1916, and by Great Britain on October 20, 1916. Documents of ratification were exchanged on December 7, 1916. Implementing legislation for the United States was accomplished by enactment of the Migratory Bird Treaty Act in 1918 (16 USC 703-711; 40 Stat. 755). Canada and the United States signed an agreement on January 30, 1979, to amend the treaty to allow subsistence hunting of waterfowl outside of the normal hunting season, but it was never ratified by the Senate and never took effect. The treaty was amended in 1995 to establish a legal framework for the subsistence take of birds in Alaska and northern Canada by Alaska Natives and Aboriginal people in Canada. The Senate provided its advice and consent to the amendments in November, 1997. The treaty was formally implemented in 1999. See

<http://www.fws.gov/laws/lawsdigest/treaty.html#MIGBIRDCAN> for more detail. Most waterfowl and woodland birds found in Michigan are protected under this law. Some examples include: common loon, trumpeter swan, great blue heron, scarlet tanager, ruby throated hummingbird, pileated woodpecker, blackburnian warbler and hermit thrush.

DNR COMPLIANCE: In compliance with the Migratory Bird Treaties with Canada, Japan, Mexico and the Soviet Union and the Migratory Bird Treaty Act, the DNR Wildlife Division regulates the take and collection of migratory birds through a closely monitored permit process (Chapters 4 & 5 of the Michigan Wildlife Conservation Order). Michigan does set on certain committees required in the agreement to include the regulation setting process and law enforcement committees. A memorandum of agreement was entered into under the authority of the Fish and Wildlife Improvement Act of 1978. Under this 2003 agreement, the DNR Law Enforcement Division cooperates with the U.S. Fish and Wildlife Service and other states in the enforcement of State and Federal laws. The Migratory Bird Treaty Act is specifically listed as one area of cooperation. The Law Enforcement Division currently has certain Conservation Officers sworn under the authority of the U.S. Fish and Wildlife Service.

6. Convention on Migratory Species (CMS). The Convention on the Conservation of Migratory Species of Wild Animals (also known as CMS or Bonn Convention) aims to conserve terrestrial, marine and avian migratory species throughout their range. It is an intergovernmental treaty, concluded under the aegis of the United Nations Environment Programme, concerned with the conservation of wildlife and habitats on a global scale. The

United States is a signatory to a memorandum of understanding but is not a party to the convention. See <http://www.cms.int/about/intro.htm> for additional information.

DNR COMPLIANCE: The United States is not a party to the Convention on Migratory Species.

7. Montreal Process and the Santiago Declaration. In February of 1995 the United States federal government (as a Montréal Process country) endorsed the Santiago Declaration and committed to using agreed-upon C&I as assessment and monitoring tools at the national level as a means of monitoring of sustainable forest management in the temperate forests of the United States. See <http://www.mpci.org> for additional information. A status report for 2003 is available at <http://www.fs.fed.us/research/sustain/documents/SustainableForests.pdf>.

DNR COMPLIANCE: Although the Montreal Process and the Santiago Declaration are not legally binding nor were they ever intended to be administered at the State level of government, the Michigan DNR is in the process of developing a state-wide set of criteria and indicators for use in monitoring the practice of sustainable forest management upon DNR-owned land. When completed this set of C&I will be referenced in management plans and posted upon the DNR internet web site.

8. Mississippi Flyway Council. The Mississippi Flyway Council (MFC) was organized in 1952 to cooperatively coordinate waterfowl management, research, and regulatory activities among the states in the Mississippi Flyway and with the U.S. Fish and Wildlife Service (FWS), the federal agency ultimately responsible for migratory bird management in the U.S. (Appendix V: Code of Procedure of the MFC). Representatives for each of the 14 states (Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin) and 3 provinces (Manitoba, Ontario, and Saskatchewan) in the MFC are top-level administrators with the authority to make policy decisions and financial commitments on behalf of their state or province.

DNR COMPLIANCE: The Michigan DNR actively participates in the Mississippi Flyway Council. William Moritz, Chief of the DNR Wildlife Division, is the current Flyway Council member representing the Michigan DNR. David Luukkonen is the DNR's representative in the Technical Section of the Mississippi Flyway Council and is a member of seven technical committees including one of which he is chair. In 2003, the DNR hosted the Mississippi Flyway Council Technical Section Meeting.

9. The Boundary Waters Treaty of 1909 established the International Joint Commission (IJC) between Canada and the United States as an independent bi-national organization. Its purpose is to help prevent and resolve disputes relating to the use and quality of boundary waters and to advise Canada and the United States on related environmental issues. Under this treaty, the federal governments of both nations must consent to any project that changes the natural levels or flows of any boundary waters, including the Great Lakes. The Commission: rules upon applications for approval of projects affecting boundary or transboundary waters and may regulate the operation of these projects; assists the two countries in the protection of the transboundary environment, including the implementation of the Great Lakes Water Quality Agreement and the improvement of transboundary air quality; and it alerts the governments

to emerging issues along the boundary that may give rise to bilateral disputes. Additional information is available at: http://www.ijc.org/en/home/main_accueil.htm

DNR COMPLIANCE: Because this treaty is related to water quality and water use issues, the Department of Environmental Quality, particularly Office of the Great Lakes, is the lead in participating in the workings of the IJC. Divisions of the DNR often supply comment through DEQ liaisons or in the form of written or public comment when issues arise.

10. The Endangered Species Act. The 1973 Endangered Species Act provides for the conservation of ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend, both through Federal action and by encouraging the establishment of State programs. The Act: authorizes the determination and listing of species as endangered and threatened; prohibits unauthorized taking, possession, sale, and transport of endangered species; provides authority to acquire land for the conservation of listed species, using land and water conservation funds; authorizes establishment of cooperative agreements and grants-in-aid to States that establish and maintain active and adequate programs for endangered and threatened wildlife and plants; authorizes the assessment of civil and criminal penalties for violating the Act or regulations; and authorizes the payment of rewards to anyone furnishing information leading to arrest and conviction for any violation of the Act or any regulation issued there under. A detailed synopsis of the Act is available at <http://www.fws.gov/laws/lawsdigest/esact.html>.

DNR COMPLIANCE: The State of Michigan has enacted Part 365, Endangered Species Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451 as amended. Michigan administers its Endangered Species Program through the DNR Wildlife Division's Natural heritage Unit. There is a cooperative Section 6 agreement between the U.S. Fish and Wildlife Service and DNR that includes an annual review of the DNR's Endangered Species Program. The DNR Wildlife Division is also a cooperative partner with the U.S. Fish and Wildlife Service (USFWS) and the U.S. Forest Service in the designation of Dedicated Species Recovery Areas for Federally endangered species (Kirtland's Warbler and Piping Plover), and well as in Candidate Conservation Agreements with Assurances (CCAAs) for special concern species (Eastern Massasauga Rattlesnake). In addition the DNR cooperates with the Michigan Natural Features Inventory for surveys, database maintenance and the identification of critical habitats for both Federal and State threatened and endangered (T&E) species. A memorandum of agreement was entered into under the authority of the Fish and Wildlife Improvement Act of 1978. Under this 2003 agreement, the DNR Law Enforcement Division cooperates with the U.S. Fish and Wildlife Service and other states in the enforcement of State and Federal laws. The Endangered Species Act is specifically listed as one area of cooperation. Additional information about T&E species can be found at: http://www.michigan.gov/dnr/0,1607,7-153-10370_12141_12168--,00.html

11. World Heritage Convention. The United Nations Educational, Scientific and Cultural Organization (UNESCO) sought to encourage the identification, protection and preservation of cultural and natural heritage around the world considered to be of outstanding value to humanity. This is embodied in an international treaty called the Convention concerning the Protection of the World Cultural and Natural Heritage, adopted by UNESCO in 1972. The

United States signed the convention on 7/12/1973. See <http://whc.unesco.org/en/convention/> for more information.

DNR COMPLIANCE: There are currently no World Heritage sites in Michigan.

12. Great Lakes Forest Fire Compact. The Great Lakes Forest Fire Compact (GLFFC) is made up of 3 U.S. States (Michigan, Wisconsin, Minnesota) and 2 Canadian Provincial Natural Resources (Ontario, Manitoba) agencies. They have created a formal association in order to promote effective prevention, pre-suppression and control of forest fires in the Great Lakes Region of the United States and adjacent areas of Canada. Participating members will provide mutual aid in prevention, pre-suppression and control of forest fires through information, technology and resource sharing activities.

DNR COMPLIANCE: The State of Michigan is represented in the Compact by the DNR. As requested by other members of the Compact the DNR provides equipment, fire crews, incident command (fire) teams, fire specialists and aircraft assets on a cooperative basis. The DNR is also able to request this same type of assistance from the other member agencies during times of wildfire emergencies. Fire prevention materials and procedures are made available to all members. These materials are often developed cooperatively by Compact members. The DNR also participates in cooperative fire training. These training sessions are often high level courses that the DNR is not capable of putting on alone. Training is also accomplished through the Compact managers exchange program. Additional information about the GLFFC can be found at: <http://www.glffc.com/>

13. Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service (APHIS) of the USDA has a role to protect the agricultural health of the United States and that of our trading partners. As a part of APHIS, Plant Protection and Quarantine (PPQ) is central to the successful movement of pest free commodities into and out of the United States. PPQ is responsible for ensuring that healthy fruits, vegetables, seeds, grains, plants, bulbs, timber, and flowers can be exported with minimal risk to agriculture and natural resources. Plant Export Certification facilitates the export of logs and wood products to Canada from Michigan by providing phytosanitary inspection and certification for commodities being exported. As a courtesy, PPQ will provide phytosanitary certificates to exporters as required by the Canadian government. The phytosanitary certificates certify that the products have been inspected and are free of regulated pests and diseases.

DNR COMPLIANCE: The phytosanitary inspections and certification process is administered by the Michigan Department of Agriculture (MDA). The DNR Forest, Mineral and Fire Management Division actively works with the MDA to achieve the containment and eradication of several diseases and non-native insect and plant species. Foremost among these is the infestation of the emerald ash borer primarily in the lower peninsula. Additional information about emerald ash borer containment and eradication efforts can be found at: http://www.michigan.gov/dnr/0,1607,7-153-30301_30505_40936--,00.html and http://www.michigan.gov/mda/0,1607,7-125-1568_2390_18298-115218--,00.html and <http://www.michigan.gov/eab>. The DNR Wildlife Division actively cooperates with the APHIS National Wildlife Disease Surveillance and Emergency Response Program to prevent or control wildlife diseases. The DNR has a number of formal agreements with APHIS: the 2005 Memorandum of Agreement

on Bovine Tuberculosis, the 2002 Cooperative Agreement on Chronic Wasting Disease, and in 2006 a Memorandum of Understanding on Avian Influenza will be signed. Additional information about bovine tuberculosis containment and eradication efforts can be found at: <http://www.michigan.gov/emergingdiseases/0,1607,7-186-25804---,00.html>.

14. The Great Lakes Basin Compact (<http://www.glc.org/about/glbc.html>). This Compact, legislatively enabled by each of the Great Lakes states in 1955 and given Congressional consent in 1968, was put forth to address a variety of environmental and economic issues. Specifically, Article I in the act calls for comprehensive development, use, and conservation of water resources in the Great Lakes Basin, to derive maximum benefit from public works in the form of navigational aids or otherwise, and to establish and maintain an intergovernmental agency for the purposes of achieving the goals in the Compact. The provinces of Ontario and Quebec also are signatory to this Compact. The Great Lakes Commission is the intergovernmental agency created to carry out the obligations of this compact.

DNR COMPLIANCE: Because this compact is related to water quality and water use issues, the Department of Environmental Quality, particularly Office of the Great Lakes, is the lead in participating in the workings of the Great Lakes Commission. Divisions of the DNR often supply comment through DEQ liaisons or in the form of written or public comment when issues arise. Additionally, work conducted under the auspices of the Great Lakes Commission is also related to work conducted through the Great Lakes Fishery Commission of which the DNR is heavily involved.

15. Convention on Great Lakes Fisheries. In 1955, this convention between Canada and the United States created The Great Lakes Fishery Commission (GLFC). The GLFC has two major responsibilities: 1) To develop coordinated programs of research on the Great Lakes, and, on the basis of the findings, to recommend measures which will permit the maximum sustained productivity of stocks of fish of common concern; and 2) To formulate and implement a program to eradicate or minimize sea lamprey populations in the Great Lakes. Subsequent to the Convention, the Joint Strategic Plan for Management of Great Lakes Fisheries was developed that defines state and province participation in meeting the goals outlined in the Convention. This plan is commonly referred to also as the Strategic Great Lakes Fishery Management Plan (SGLFMP).

DNR COMPLIANCE: The Department participates fully in the activities related to SGLFMP which include representation on the Council of Lake Committee, Lake Management Committees, Technical Committees, a Fish Health Committee, and the Law Enforcement Committee. Associated with these activities is the participation at the Annual Lake Meetings as well as at the Annual Commission meeting. Basin-wide coordinated management, monitoring, and research activities are conducted through these organized bodies.